

REMARKS

Claims 1-2, 4-11 and 16 are pending and under consideration. Claim 15 is amended herein. New claim 16 is added.

The objection to the specification regarding claim 1 is respectfully traversed. The upper free portion of the shape tape is illustrated in Fig. 4. The Examiner's attention is drawn to the top portion of the shape tape 218. Regarding claim 15, the present amendments to this claim overcome the objection, as well as the rejection under 35 U.S.C. § 112.

The rejections under 35 U.S.C. § 103 are respectfully traversed. Independent claim 1 recites the shape tape having a free upper portion not attached to the head receiving portion or the sweat band. It was previously argued that the plastic 21 of Higgs attaches to the top and bottom portions of the cloth 20. The Examiner presently states that no stitching is present at the upper portion of the sweatband 12, therefore allowing the upper edge of the shape tape 21 to be unattached and free within the sweatband. However, Fig. 4 of Higgs illustrates the encircling edge 10 of the crown conforms to the shape of the plastic 21. This shape conformation indicates that the edge 10 and plastic 21 are attached. The upper end of the cloth 20 is wedged between the edge 10 and the plastic 21, and therefore the cloth 20 is not free. Also, Fig. 4 illustrates the toweling 12 folds over the top outer portion of the edge 10 (Fig. 4 illustrates lines which represent the toweling 12, as shown in the attached exhibit).

Nebeker does not overcome these deficiencies in Higgs.

New claim 16 recites the free upper portion does not contact the head receiving portion or the sweat band. In contrast, Fig. 4 of Higgs illustrates the plastic 21 contacting the cotton fabric 20.

Accordingly, withdrawal of the rejections is requested.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

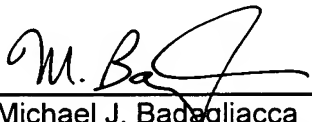
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If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: 1-6-09

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